

Division of Securities  
Utah Department of Commerce  
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BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE OF THE STATE OF UTAH

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IN THE MATTER OF:

JORDAN N. TENNEY; and  
**COMMUNICOM DIRECT, INC.,**  
  
Respondents.

NOTICE OF ENTRY OF  
DEFAULT AND ORDER

Docket No. SD-05-0074  
**Docket No. SD-05-0075**

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**I. BACKGROUND**

A formal adjudicative proceeding was initiated by the Division's Emergency Order to Cease and Desist and Order to Show Cause (OSC) and Notice of Agency Action (Notice) dated December 7, 2005, against CommuniCom Direct, Inc. and Jordan N. Tenney. On August 4, 2006, Jordan N. Tenney entered into a Stipulation and Consent Order with the Division. The Division has moved for entry of a default judgment against CommuniCom Direct, Inc.

**II. FINDINGS OF FACT**

1. On December 7, 2005, the Division mailed, by certified mail, an Emergency Order to Cease and Desist and Order to Show Cause (OSC) to CommuniCom Direct, Inc. (CommuniCom) along with a Notice of Agency Action (Notice), advising that a default

order would be entered if it failed to file a written response to the OSC within thirty (30) days of the mailing date of the Notice.

2. On January 9, 2006, the Division received notice from the United States Postal Service (USPS) that delivery to CommuniCom's business address was attempted, but not successful.
3. On or about December 12, 2006, however, the Division received notice from USPS that delivery to CommuniCom's controller and treasurer, Jordan N. Tenney (Tenney Jr.), was successful.
4. CommuniCom has yet to file a response to the OSC.
5. CommuniCom was registered as a Utah corporation in May 2002, but its corporate status expired in May 2005. CommuniCom was located at 9710 South 700 East, Suite 111, in Sandy, Utah, and John B. Tenney (Tenney Sr.) was CommuniCom's president, director, and registered agent. CommuniCom was a contractor for Comcast, and installed Comcast Internet, cable, and telephone services in Massachusetts.
6. Utah investor (Investor) was approached by CommuniCom in April 2005, to invest in factoring agreements issued by CommuniCom.
7. CommuniCom told Investor it performed contract work for Comcast, Inc., then billed Comcast for the work; that Investor could purchase the invoice (the account receivable) at a discounted price thereby providing CommuniCom with immediate funds; and when CommuniCom received payment on the invoice from Comcast, CommuniCom would pay Investor the full amount of the invoice.

8. Investor was told that CommuniCom's operations in Massachusetts were managed by Mike Espinoza (Espinoza), and operations in Utah were managed by Tenney Sr., with the help of his son, Tenney Jr.
9. Investor was told that CommuniCom was a very successful company and was growing rapidly.
10. Investor met David B. and George W., both of whom claimed to be factoring CommuniCom's invoices. David B. and George W. told Investor they received all their payments when expected and had experienced no problems with CommuniCom.
11. Between April 23, 2005 and October 22, 2005, Investor purchased 52 factoring agreements from CommuniCom, paying a total of \$295,800.
12. Each factoring agreement provided that Investor would be granted a security interest in "all of CommuniCom's Comcast accounts receivable; otherwise all of CommuniCom's Comcast accounts receivable are free of any security interest or encumbrance." Each factoring agreement contained a section entitled "Guaranteed repurchase in default" which provided: "Upon any default in the payment of any accounts receivable here assigned to [Investor], CommuniCom shall . . . purchase at face value any such account in default."
13. In July 2005, Investor stopped receiving payments from CommuniCom.
14. When Investor inquired as to why payments stopped, he was told CommuniCom was experiencing some problems, but the problems had been worked out and Investor would

get his money in the next week or so. Investor received a few partial payments over the next three months.

15. In late October 2005, Investor went to the offices of CommuniCom along with his accountant and Espinoza, seeking to review the financial records of CommuniCom. The financial records showed that some of CommuniCom's money was used to pay Tenney Sr.'s personal expenses, such as the cost of hiring an expert witness to defend against criminal charges filed against Tenney Sr.

#### Registration Violations

16. The factoring agreements offered and sold by CommuniCom are securities under the Utah Uniform Securities Act (the Act).
17. The factoring agreements were offered and sold in this state.
18. The factoring agreements are not registered under the Act and CommuniCom has not filed any claim of exemption relating to the agreements.
19. Communicom offered and sold unregistered securities in Utah in willful violation of §61-1-7 of the Act.

#### Licensing Violations

20. CommuniCom hired an unlicensed agent, Tenney Jr., to offer and sell its securities in Utah.
21. CommuniCom employed an unlicensed agent to offer and sell its securities in willful violation of § 61-1-3(2)(a) of the Act.

### Misrepresentations, Omissions and Fraudulent Practices

22. In connection with the offer and sale of securities in this state, CommuniCom made misrepresentations of material facts, omitted to state material facts, and engaged in acts, practices, and courses of business that operate or would operate as a fraud or deceit on investors.
23. The material misrepresentations made by CommuniCom include:
  - a. Claims that CommuniCom was growing rapidly and was a very successful company;
  - b. Promises that purchasers of accounts receivables (invoices to Comcast) would receive full payment on the invoices directly from CommuniCom as soon as CommuniCom received payment from Comcast;
  - c. Assertions that purchasers of factoring agreements would have security interests in all of CommuniCom's accounts receivable from Comcast;
  - d. Falsely stating that the Comcast receivables were free of any security interest or encumbrance; and
  - e. Claiming that the factoring agreement was guaranteed and that CommuniCom would repurchase them at full value in the case of default.
24. CommuniCom omitted to disclose material information to offerees and investors about the investment. The information that should have been disclosed includes:

- a. That Tenney Sr. had two prior convictions for securities fraud, including one conviction for a fraud relating to factoring of receivables;
- b. That at the time Tenney Sr. was soliciting and accepting investment monies on behalf of Communicom, he was awaiting sentencing on his conviction for securities fraud;
- c. That Espinoza had been charged with multiple criminal securities violations for his participation in a factoring scheme;
- d. That Tenney Jr. had at least three civil judgments, totaling \$1,723, entered against him for prior business activities;
- e. That some of CommuniCom's funds were used to pay the expenses of an expert witness hired to assist in the criminal defense of Tenney Sr.;
- f. That there were no filings made with the Utah Division of Corporations to perfect a security interest for Investor in the accounts receivable for CommuniCom;
- g. That the securities being offered and sold were not registered, as required, and that the sellers of the investment program were not licensed to sell securities in Utah, as required; and
- h. The type of information ordinarily given to investors in a prospectus including financial statements, descriptions of the backgrounds of company officers and directors, the intended use of proceeds, a list of the risk factors relating to the investment, and a discussion of the company's business operations.

25. CommuniCom engaged in acts, practices, or courses of business that operate or would operate as a fraud or deceit on an investor, including:
- a. Using monies promised to investors to pay for the defense costs of the criminal trial of Tenney Sr.; and
  - b. Soliciting and accepting funds from investors while the president and director of CommuniCom awaited sentencing for a prior, similar scheme.

### **III. CONCLUSIONS OF LAW**

26. The service of the OSC and the Notice initiating these proceedings is valid upon CommuniCom.
27. Because CommuniCom did not file an answer or written response it is in default.
28. The factoring agreements offered and sold by CommuniCom are securities under § 61-1-13 of the Act.
29. CommuniCom offered and sold securities in Utah that were not registered under the Act;
30. By this conduct, Communicom willfully violated § 61-1-7 of the Act.
31. CommuniCom employed an unlicensed agent to offer and sell its securities in Utah.
32. By this conduct, CommuniCom willfully violated § 61-1-3(2)(a) of the Act.
33. In connection with the offer and sale of a security, CommuniCom made untrue statements of material fact to Investor.
34. By this conduct, CommuniCom willfully violated § 61-1-1(2) of the Act.

35. In connection with the offer and sale of a security, CommuniCom omitted to state to Investor various material facts which were necessary to make the statements made not misleading.
36. By this conduct, CommuniCom willfully violated § 61-1-1(2) of the Act.
37. In connection with the offer and sale of a security, CommuniCom engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon investors.
38. By this conduct, CommuniCom violated § 61-1-1(3) of the Act.

#### **IV. ORDER**

Based on the above, the Director hereby:

1. Declares CommuniCom Direct, Inc. in default for failing to respond to the OSC and Notice issued December 7, 2005.
2. Enters, as its own findings, the Finding of Fact described in Section II above.
3. Enters, as its own conclusions, the Conclusions of Law described in Section III above.
4. Finds that CommuniCom Direct, Inc. willfully violated the Utah Uniform Securities Act by:
  - a. Offering and selling securities in Utah that were not registered under the Act, in violation of § 61-1-7 of the Act;
  - b. Employing an unlicensed agent to offer and sell its securities in Utah, in violation of § 61-1-3(2)(a) of the Act;



- c. Making material misrepresentations in connection with the offer and sale of securities, in Utah in violation of § 61-1-1(2);
  - d. Omitting to disclose material information in connection with the offer and sale of securities, in Utah in violation of § 61-1-1(2), and
  - e. Engaging in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person, in violation of § 61-1-1(3).
5. Orders CommuniCom Direct, Inc. to permanently CEASE and DESIST from any violations of the Act, and
6. Orders CommuniCom Direct, Inc. to pay a fine of fifty thousand dollars (\$50,000) to the Division by Friday, October 13, 2006.

DATED this 15<sup>TH</sup> day of August, 2006.

  
WAYNE KLEIN  
Director, Division of Securities



Pursuant to § 63-46b-11(3), Respondent may seek to set aside the Default Order entered in this proceeding by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

**Certificate of Mailing**

I certify that on the 16<sup>TH</sup> day of August 2006, I mailed a true and correct copy of the

Notice of Entry of Default and Order to:

CommuniCom Direct, Inc.  
C/O Jordan Tenney  
3641 Golden Oaks Drive  
Salt Lake City, UT 84121

Certified Mail # 7006 0100 0001 7688 8886

Pamela Raddinski  
Executive Secretary